

REMARKS

The Office Action of January 17, 2007 has been received and the Examiner's comments carefully considered. Claims 32 and 44 have been amended in accordance with the originally-filed specification to adopt the Examiner's suggestions for overcoming the Section 112, first paragraph, rejection. No new matter has been added. Claims 32-51 are pending in this application, and claims 32 and 44 are in independent form.

On December 21, 2006, the Patent Office mailed a *Notice of Withdrawal From Issue Under 37 C.F.R. 1.313(b)*. This Notice indicated that the present application has been withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. In particular, the application has been withdrawn to permit reopening of the prosecution due to the unpatentability of one or more claims. The Examiner handling the present application is thanked for informing the undersigned that this action was occurring.

In the present Action, the Examiner indicates that certain prior art of record, namely French Patent No. 002779630 to Pelliger, has an impact on the patentability of the pending claims. In particular, the Pelliger patent was published on December 17, 1999, which predates Applicant's Section 371 filing date of International Patent Application No. PCT/CH00/00112 of February 29, 2000. However, the Examiner has further indicated that a certified translation of Applicant's priority document, namely Swiss Patent Application No. 459/99, filed March 11, 1999 in the name of Paul Schweizer, would be effective in overcoming this rejection.

Attached hereto and incorporated herein by reference is a certified translation of the original priority document underlying the international application. As discussed, the filing date of this priority application predates the publication date of the Pelliger patent, such that this Pelliger patent cannot be considered prior art. Accordingly, and as agreed to by the

Examiner, the filing of the certified translation of this priority document in the record of the present application is effective in overcoming any rejection related to the Pelliger patent.

While the Examiner has indicated that the submission of the certified translation of the priority document would be effective in overcoming the Pelliger patent, claims 32-41, 43-49 and 51 stand rejected under 35 U.S.C. § 102(a) as being anticipated by the Pelliger patent. Further, claims 42 and 50 stand rejected under 35 U.S.C. § 103(a) as being obvious over the Pelliger patent. Accordingly, it is the Examiner's position that to the extent Applicant in the present application cannot submit a certified translation, these rejections stand. However, as discussed above, a certified translation has, indeed, been submitted in this Response, such that these Section 102 and 103 rejections have been overcome. Accordingly, withdrawal of the rejections of claims 32-51 in view of the Pelliger patent is respectfully requested.

Claims 32-51 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner believes that certain claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Pursuant to the Examiner's suggested modifications, the above amendments to claims 32 and 44 overcome this rejection. Accordingly, withdrawal of the Section 112, first paragraph, rejection of claims 32-51 is respectfully requested.

Further, the Examiner has notified the undersigned that the Notice of Allowance, mailed November 20, 2003, has been vacated, even though the issue fee has already been paid. While Applicant understands that a request for refund may be submitted,


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due to the return of the present application to an "allowable" state, Applicant hereby requests that the previously-submitted issue fee be applied to the present application.

For all the foregoing reasons, Applicant believes that claims 32-51, as amended, are patentable over the cited prior art and in condition for allowance. Reconsideration of the rejections and allowance of all pending claims 32-51 are respectfully requested.

Respectfully submitted,

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